

# **FHWA/WSDOT STEWARDSHIP AGREEMENT (2001)**

## **Implementation Sub-agreement**

### **Construction Monitoring Plan**

#### **Introduction**

Webster defines “steward” as “one who acts as a supervisor or administrator, as of finances and property, for another or others.” The designated steward of all federal highway funds is the United States Department of Transportation, acting through the Federal Highway Administration. In Washington State, FHWA is represented by its Washington Division. Washington Division has delegated a portion of its stewardship responsibility (and the corresponding authority) to the Washington State Department of Transportation through the Stewardship Plan, signed on May 17, 2001.

This document constitutes further agreement between FHWA and WSDOT concerning the details of the part of the stewardship agreement that applies to construction (Section III-F). The subject matter of this sub-agreement is monitoring of construction performed on behalf of WSDOT by independent contractors.

#### **Scope of Construction Monitoring Plan**

This plan deals specifically with federally-financed construction performed under contracts with WSDOT and administered through the WSDOT Headquarters Construction Office. It is not intended to be all-encompassing. Contracts for work on Ferries and Ferry facilities are not included. Contracts for work through local agencies are not included. Federally-financed utility agreements are not included. Emergency Relief work performed by contractors and administered by WSDOT Maintenance is not included.

#### **Program-wide Specification and Process Approvals**

FHWA has retained for itself the approval of all contract plans and specifications for new construction and re-construction on the Interstate system. For other projects, the stewardship agreement delegation leaves these approvals to WSDOT. To avoid confusion, WSDOT has decided to make approval decisions for work under its delegated authority that conform exactly to approvals in the same situation by FHWA for work under authority that has not been delegated.

To accomplish FHWA approval of specifications, a collection of standard specifications has been developed by WSDOT and pre-approved for use by FHWA. An accompanying set of General Special Provisions, applicable to specific contracts depending on defined circumstances, has also been developed and approved. Contract provisions from either of these sources are pre-approved. Provisions modifying or expanding the standards, that are created in WSDOT satellite offices for particular projects, are not pre-approved and must be reviewed and approved, either by FHWA or HQ Construction, during the plan approval process for the individual project.

To accomplish FHWA approval of processes, WSDOT has developed the Construction Manual and has sought and received FHWA approval of its contents. To qualify for federal funding, all inspection, documentation and administration work done must be done in accordance with the provisions of this pre-approved manual. Exceptions to the requirements of the manual may be sought, but the manual represents agreement between WSDOT and FHWA. Its requirements

cannot be changed by modifying the contract between WSDOT and its contractor. The points of contact for revisions to Construction Manual requirements are the WSDOT Headquarters Materials Laboratory (for Chapter 9) and the Headquarters Construction Office for all other parts of the manual.

As part of its management responsibilities, WSDOT agrees to seek out and identify areas where approved specifications were not met, where unapproved specifications were used, where approved procedures were not followed or where unapproved procedures were implemented and refrain from billing FHWA for the value of the associated work.

### **Project Responsibility**

FHWA, Washington Division, has delegated to WSDOT (and through the WSDOT delegation of authority to the Headquarters Construction Office) stewardship responsibility and authority for all federally-funded construction except new construction and re-construction on the Interstate system and certain specially-selected areas of high interest. The special selections are made by FHWA and include significant demonstration projects, special funding agreements and projects of very high national interest. Past selections have included the SR 395 Demonstration Corridor, the Tacoma Tidelands SR 509 work (financed partly with Puyallup tribal funds,) and the Mt. St. Helens emergency relief reconstruction.

The Construction Office has further delegated the stewardship reporting responsibility for projects with a contract value less than \$3.5 Million to the various WSDOT Regions. The delegation of stewardship authority from Headquarters to the Regions is through the Construction Manual.

FHWA has also delegated to WSDOT the authority to accept projects on the Interstate system that are not new construction or re-construction. This authority has been further sub-delegated to the Regions for projects with a contract value less than \$3.5 Million.

At least once per year, WSDOT will publish a list of all projects that have been started and not closed out for federal funding. The list will be divided to show the responsibility for stewardship reporting for each project.

### **FHWA Review/Approval Actions & Related Processes**

With the pre-approval of specifications and processes and the extensive delegation of stewardship authority, there are relatively few approval actions needed from FHWA during actual construction.

For new construction and re-construction on the Interstate system, FHWA has retained the oversight role of interim, or project, inspections, final inspections and acceptance, and the approval of certain high-value change orders.

The following processes will apply:

For project inspections, the WSDOT Project Engineer and the FHWA Area Engineer shall agree on the timing of such inspections. Typically, project inspections will take place quarterly, however, the Area Engineer may select other frequencies. The Project Engineer will advise the Area Engineer when agreed milestones or completion stages have been accomplished and the Area Engineer will schedule the review and prepare the report. (A similar process will be followed between the Project Engineer and the Headquarters Construction representative for

delegated projects when the delegation has been retained at Headquarters. Regions will develop processes for those jobs delegated to them.)

For final inspections and acceptance, the review will be conducted in two parts. The first part will be a field review of the work and will be conducted at about the time of substantial completion, when the contractor is still available to make corrections or changes identified during the review. The second part of the process will be the final acceptance review. This will be conducted after WSDOT has accepted the contract and has assembled all cost and materials documents. The second part of the review (acceptance) may be conducted with an exchange of documents and without a physical visit to the site. The Project Engineer will notify the Area Engineer when these times have arrived and the Area Engineer will schedule the reviews and will prepare one final report summarizing both reviews. (A similar process will be followed between the Project Engineer and the Headquarters Construction representative for delegated projects when the delegation has been retained at Headquarters. Regions will develop processes for those jobs delegated to them.)

Change orders on FHWA stewardship projects may be approved by WSDOT unless they alter the termini, character or scope of work of the contract or unless they have a net value of more than \$200,000. Note: Changes that adjust quantities without changing the work may be approved by WSDOT regardless of value. FHWA approval will normally be a written formal response, but may be verbal if the public interest is served by the more timely action. In all cases, the FHWA approval of a change order shall be obtained through the Headquarters Construction Office.

The FHWA Area Engineer may also choose to accompany the WSDOT reviewer during the review of any federal-aid project. Such participation will be random and will be initiated by the Area Engineer. This participation by the FHWA will not change any delegation of oversight responsibility or authority in any way. When the Area Engineer has participated in a review, a copy of the summary report will be provided directly to the Area Engineer.

### **Notices & Submittals to FHWA**

The Stewardship Agreement calls for certain information and documents to be provided to FHWA by WSDOT. Some of these are available electronically and WSDOT responsibility is to maintain the database that contains them (Completion Date, List of Change Orders, Acceptance Date and Comparison of Quantities.) Others are reports or written material wherein the content is critical and actual documents must be provided (Material Certification, FHWA-47.) The Materials Certification is sent directly to FHWA by the Region Construction Manager at the time the Region certifies the materials. The FHWA 47 form (required only on NHS jobs with a value greater than \$1 Million) is obtained by the Project Engineer from the Contractor and sent (original document) directly to FHWA (attn: Construction Engineer) within six months after physical completion.

### **Stewardship Summary Reports**

It is important to note the difference between a steward and a stewardship reviewer/reporter. Stewardship on WSDOT federal-aid projects is provided by a wide cross-section of employees who make stewardship decisions according to the requirements of the Construction Manual and their own delegated responsibilities and authorities. From the field inspector who observes contract work and prepares pay instructions, to the Project Engineer who reviews and approves a

monthly progress payment, to the Region Construction Manager who executes a change order, to the Headquarters Construction Engineer who negotiates and approves a claim settlement, all are acting as stewards in their own job descriptions and assignments.

The stewardship reviewer/reporter, on the other hand, is acting as an overseer, observing and collecting information about all of the stewardship activities, evaluating that information, making recommendations concerning the qualification of the covered work for federal funding and preparing reports to summarize the activities. Reviewers may be FHWA Area Engineers, Headquarters Construction Engineers, Region Managers or subordinate Region specialists in documentation or contract administration. For the reports that it prepares, WSDOT may assign any person of the classification of Transportation Engineer 3 or above to this duty. The only restrictions are that the reviewer must not have been involved in the project-level administration and the report must be signed by someone with supervisory authority over the Project Engineer or management responsibility over the contract itself.

- Types of Reports

Interim Reports (also known as Project Reports) are intermediate summaries of stewardship activities on an uncompleted project. These will be performed on multi-season jobs at least annually. Interim reports may be submitted at a greater frequency or for a special purpose at any time, at the discretion of the stewardship reviewer. Interim reports may be submitted on single-season projects for special purposes, again at the discretion of the reviewer.

Final Inspection/Acceptance Reports are single close-out reports that summarize the results of reviews conducted in two parts at the completion of all projects. The first part is a review of the field work conducted at a time when the contractor is still available to perform additional work or corrective work. The second part is after acceptance, when the final cost figures are known and the materials certification is available. For FHWA-retained projects, the final inspection and acceptance will be conducted by the FHWA Area Engineer. For delegated projects with a greater value than \$3.5 Million, the final inspection and acceptance will be conducted by a representative of the Headquarters Construction Office. For projects further delegated to a Region, the final inspection and acceptance will be conducted by a Region representative. The final acceptance portion of the final review may be done without a site visit, working from documents and computer data only.

- Timing of Reports

Interim reports will be performed at times that are appropriate for the nature and progress of the work and the seasonality of the project. These times will be determined through the judgment of the reviewer. The objective for all reviewers will be to prepare and submit interim reports within 30 calendar days after the field review.

Final inspections will be conducted around the time of physical completion, while the contractor is still mobilized and able to perform corrective or added tasks. The Project Engineer is in the best position to identify this time and shall advise the reviewer that a final inspection is needed. Final acceptance reviews will be conducted after the State Construction Engineer's final acceptance of the contract itself and after receipt of the Region's Materials Certification. The objective for all reviewers will be to prepare and submit the final inspection/acceptance report within 60 calendar days after project final acceptance.

Copies of reports prepared by FHWA will be sent to the Headquarters Construction Office. Copies of reports prepared by any WSDOT reviewer will be collected by the Headquarters Construction Office and forwarded to FHWA.

- Content of Reports

Note: As a significant part of any review, the reviewer must visit the jobsite and confirm that a project of approximately the nature and magnitude of that shown on the plans actually does exist.

Job Description	A description of the major elements of the work. Include a narrative about the job. Include the contractor's name, the award date and the amount of the bid.
Time and Damages	On an interim report, discuss the present status of time and its relationship to the completion status. If behind, describe what is being done to catch up. Describe any suspensions or time extensions. On a final report, discuss the final time result. If overrun, discuss liquidated damages. Subjectively, comment on the amount of time set up.
Change Orders	Confirm that each change was approved according to the checklist before the work started. Evaluate the preparation of the change order and the justification. For all changes, include a statement of federal participation eligibility. Include more detailed discussions of major changes (Scope Change, Claim Settlements, Significant Actions, Over \$100,000).
Cost	List the final payment, the original amount, the net effect of change orders and the mathematical calculation of net overruns/underruns. Obtain and include a general explanation of the overs and unders.
Materials	On an interim report, review a process in progress by checking for submittals and approvals of RAMs, any drawing or catalog submittals, the testing method and frequency, adjustments to the ROM, observe field tests and include a summary report. Comment on the overall status of materials testing, documentation and adequacy. On a final report, review the Region Materials Certification, comment on any missing items and mention the resolution of the certification for participation purposes. Refer to the following section, "Quality Improvement and Accountability," for a discussion on selection of processes for review.
Disputes, Claims	On an interim report, note any claims or major disputes presently underway. Note how previous issues have been resolved. On a final report, note any exceptions to the final voucher certification and describe the issue.
Traffic Control	Comment on the adequacy of the traffic control plans. Discuss the project's use of flagging, devices, pilot cars, etc. and any unusual events during the project.
Training	On an interim report, determine that a plan has been submitted and approved. Also, note the comparison between accomplished training and the completion status. Report any efforts to recover if behind. On the

	final report, list the amount of training originally included, any changes made to this requirement and the total amount of training accomplished.
Subcontracting	Discuss the level and nature of subcontracted work. Note any DBE requirements and any change orders modifying these requirements by deleting, adding or substituting DBE commitments. Make reference to any Condition of Award requirements. Assure that mandatory DBE contracting did happen and that the DBEs performed a commercially useful function (review the On-Site reports). Review on-site reports for any DBE firm utilized, whether or not its utilization was mandatory.
Other	Talk to the Project Engineer. Look for special notes. If there was an experimental spec or process, discuss it. If there was an unusual event or happenstance, discuss that. Describe the overall impression of the contractual relationship. Describe any evidence of successful collaboration between the parties. Include any other information of interest.

### **Quality Improvement and Accountability**

For all jobs, FHWA has retained the responsibility and authority for QI&A. As described above, much of the programmatic approval for construction lies in the review and approval of the Standard Specifications and the Construction Manual.

As part of the Construction Monitoring Plan, representatives of FHWA and the Headquarters Construction Office of WSDOT will meet annually in the Autumn and plan the process reviews and emphasis areas for the coming year. The results of this planning will be published by January 1<sup>st</sup> of each year.

Emphasis areas will be defined and reviewed as possible during interim stewardship reviews. If an insufficient amount of review is accomplished in this manner, the Headquarters Construction Office will work with FHWA to identify and schedule special reviews of emphasis areas separate from the stewardship reviews.

Special reviews will be conducted by FHWA personnel. WSDOT will participate in the reviews by joining the review team and accompanying the team to all review sites.

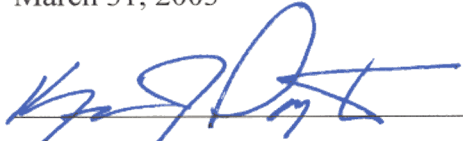
### **Communication**

Much of the day-to-day communication between WSDOT and FHWA is informal in nature. Verbal discussions, telephone consultations and e-mail notices (including digital photos when needed for clarity) are used extensively. Except where formal written notices are specifically required, staff from both agencies will attempt to utilize the simplest form of communication that accomplishes the needed communication in the least time. All reports and correspondence related to a project shall bear both the WSDOT contract number and the FHWA project number as identifiers.

## **Endorsement**

With the understanding that, in the event of conflict between any part of this sub-agreement and the primary Stewardship Agreement (signed May 17, 2001), the primary Agreement shall take precedence, we agree to work together in the manner described herein.

March 31, 2003



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